

Employing Workers from Overseas

Introduction

This policy sets out Birmingham Newman University's approach to employing workers from overseas. We will comply with our legal obligations in relation to employing workers from overseas. We value workers from overseas and the knowledge and skills they can contribute to creativity, innovation and productivity within the institution. This may include performing jobs which require specialist skills that are not available in the UK, or vacancies for jobs which the government agrees are in designated 'shortage occupations.' The University recognises its responsibility in recruiting migrant workers, carrying out the necessary checks and making sure the law is followed.

Avoiding illegal working

The University will not employ anyone who does not have a legal right to work in the UK. All offers of employment we make will be subject to the job applicant providing us with:

- the required original documents (which we will verify with the job applicant in person or remotely by via a live video link); or
- the information we need to be able to carry out a check using the Home Office online right to work service confirming the job applicant's right to do the work in question – (for us to be able to conduct an online check, the individual must have shared their right to work details with us using the Home Office prove your right to work to an employer online service by providing their share code and date of birth).

The HR Department will conduct the necessary right to work checks during the recruitment process with the exception of those staff employed as External Examiners. In these cases, the Registry department is responsible for conducting the necessary right to work checks during the recruitment process. The HR Department are available to provide advice and guidance on these checks as required and reserve the right to complete ad-hoc audits on the process being followed to ensure compliance.

If an individual has time-limited permission to live and work in the UK, they will need to provide evidence of their renewed right to live and work in the UK, or of a valid application having been made, prior to the expiry of that time-limited permission. We will carry out checks in line with Home Office requirements.

If a successful job applicant is unable to provide evidence of their right to work in the UK and to do the work in question, or the Home Office online check fails to confirm this, we will have no option but to withdraw the offer of employment that has been made.

If we become concerned during the course of their employment that an employee does not have the right to work in the UK, we will investigate the circumstances. If it becomes clear

that the employee does not, or does not appear to, have the right to work in the UK, we may be left with no option other than to terminate the employee's contract of employment.

Points-based system

The University will comply with the requirements of the Home Office's points-based system for employing workers from overseas. Where we plan to recruit a worker who is subject to immigration control and who does not already have the right to work in the UK, the HR Department will investigate whether sponsorship is the best way forward.

For eligible workers from overseas who we plan to recruit, we hold a sponsor licence to enable us to issue a certificate of sponsorship for a skilled worker visa to those workers. We will comply with our obligations as a licensed sponsor.

Under the points-based immigration system, with the exception of Irish citizens, anyone coming to the UK for work must meet a specific set of requirements for which they will score points. Visas are then awarded to those who gain enough points.

The Skilled Worker route encompasses the majority of UK jobs eligible for overseas recruitment. Under the Skilled Worker route, anyone the University wishes to recruit from outside the UK will need to demonstrate that they score 70 'points' to be eligible. This includes 50 points for mandatory or 'non-tradeable' criteria, and 20 points for 'tradeable' criteria.

The mandatory criteria are set out in the table below:

Points Type	Points Description	Points Available
Sponsorship	The applicant must have a valid Certificate of Sponsorship for the job they are planning to do. The job must: <ul style="list-style-type: none">• be a genuine role• meet the rules on working for a third party (if relevant)• comply with the National Minimum Wage and Working Time Regulations	20
Job offer at required skill level	The job must be in an eligible occupation and (where relevant) meet the ATAS requirement (Academic Technology Approval Scheme)	20
English Language	The applicant must have English language skills at level B1 or higher on the Common European Framework of Reference for language in all 4 components (speaking, listening, reading, writing)	10

In addition to scoring 50 points for the above criteria, the applicant must also score 20 'tradeable' points from the options detailed in the table below:

Option	Requirements	Points Available
A – salary only	The applicant's salary equals or exceeds all of: <ul style="list-style-type: none"> • £26,200 per year • the going rate for the occupation code; and • £10.75 per hour 	20
B – relevant PHD	PhD in a subject relevant to the job and the applicant's salary equals or exceeds all of: <ul style="list-style-type: none"> • £23,580 per year • 90% of the going rate for the occupation code; and • £10.75 per hour 	20
C – relevant STEM PHD	PhD in a Science, Technology, Engineering or Mathematics (STEM) subject relevant to the job and the applicant's salary equals or exceeds all of: <ul style="list-style-type: none"> • £20,960 per year • 80% of the going rate for the occupation code; and • £10.75 per hour 	20
D – shortage occupation	Job in a listed shortage occupation and the applicant's salary equals or exceeds all of: <ul style="list-style-type: none"> • £20,960 per year • 80% of the going rate for the occupation code, for occupations where a going rate is specified; and • £10.75 per hour 	20
E – new entrant	Applicant is a new entrant to the labour market and their salary equals or exceeds all of: <ul style="list-style-type: none"> • £20,960 per year • 70% of the going rate for the occupation code; and • £10.75 per hour 	20
F – listed health or education occupation	Job in a listed health or education occupation and the applicant's salary equals or exceeds both: <ul style="list-style-type: none"> • £20,960 per year; and Page 24 of 53 Sponsor a Skilled Worker – version 07/23 Option Requirements <ul style="list-style-type: none"> • the going rate for the occupation code You can temporarily pay a pre-registration nurse or midwife below these rates if certain conditions are met.	20

Further details regarding the mandatory and tradeable criteria are available at Sponsor a skilled worker.

Identify whether a job meets the required skill level

All jobs have a corresponding Standard Occupational Classification (SOC) code. Each SOC code has a designated skill level. This determines whether the job meets the requirements of the Skilled Worker route.

Shortage Occupation List

The Shortage Occupation List, which is recommended by the independent Migration Advisory Committee, is comprised of skilled jobs where there is an identified national shortage which is sensible to fill, at least in part, through immigration.

An occupation on the Shortage Occupation List results in lower application fees and reduced salary requirements, for skilled workers filling jobs which are in shortage. This does not, however, exempt jobs from the wider mandatory requirements of the Skilled Worker Route, including the skills threshold and the English language requirement.

Speaking English at the Required Level

Most applicants on the skilled worker visa route will be required to evidence that they can read, write, speak and understand English to at least level B1 on the Common European Framework of Reference for Languages (CEFR) Scale. This can be by:

- passing a Secure English Language Test (SELT) from an approved provider
- having a GCSE, A level, Scottish National Qualification level 4 or 5, Scottish Higher or Advanced Higher in English, gained through study at a UK school that they began when they were under 18
- having a degree-level academic qualification that was taught in English - if they studied abroad, they'll need to apply through Ecctis (formally UK NARIC) for confirmation that their qualification is equivalent to a UK bachelor's degree, master's degree or PhD

Financial requirement

If the applicant is applying for entry clearance from outside the UK or has been in the UK for less than one year at the date of application, they must show they have enough funds to support themselves and any family members in the UK.

Overseas criminal record certificate requirement

Some applicants on the Skilled Worker route must obtain this certificate to be granted entry clearance or permission to stay. This will depend on whether they are being sponsored for a job in specified occupation codes. -If this is the case, they must provide a criminal record certificate from the relevant authority in any country in which they have been present for 12 months or more (whether continuously or in total) in the past 10 years, while aged 18 or over.

TB Tests

Some applicants via the skilled worker route may need to have a tuberculosis (TB) test if they are coming to the UK for 6 months or more and they have lived in certain countries for 6 months or more and were living there (or another listed country) within the last 6 months.

Sponsor Reporting Duties

The University will fulfil all of its obligations as a sponsor license holder, including reporting any relevant changes to the organisation, key contacts and sponsored workers on the Sponsor Management System (SMS) and retaining key documents and information in line with Appendix D of the Home Office Guidance.

The University (HR Department) will issue those employed on a skilled worker visa with written confirmation of any relevant changes in circumstances that the worker in question must report to HR immediately, during the course of their sponsored employment with the University.

Similarly, the HR Department will provide written confirmation to the line manager of any relevant changes in circumstances for the worker in question that the line manager must report to HR immediately.

HR have developed specific guidance for employees and managers in relation to our Sponsor Reporting Duties. These can be found on the staff intranet.

Other Immigration Routes

There are also a number of other routes to working in the UK, which include (but are not limited to) the following (and do not all require sponsorship):

- The Global Talent route enables the most highly skilled individuals, who can achieve the required number of points, to enter the UK without a job offer if they are endorsed by a recognised UK body, as approved by the Home Office.
- The Graduate route enables international students who have been awarded their degree to stay in the UK and work, or look for work, at any skill level for two years, or three years for doctoral students. It is an unsponsored route, meaning you do not need a sponsor licence to hire someone with a Graduate visa.
- The Intra-company visa allows multinational organisations to facilitate temporary moves into the UK for key business personnel through their subsidiary branches, subject to ICT sponsorship requirements being met. The route requires applicants to be in roles skilled to RQF 6 (graduate level equivalent), and subject to a different minimum salary threshold from the main Skilled Worker route.
- The Health and Care visa is part of the Skilled Worker route. It enables individuals to come to the UK to work if they are working in eligible health occupations, with a job offer from the NHS, adult social care sector or organisations that provide services to the NHS. Applicants benefit from a lower application fee and are exempt from paying the Immigration Health Charge which applies to most other types of visa.
- Creative route - This route is for applicants in the creative industry who are entering the United Kingdom for short-term contracts or engagements for up to 12 months.

Applicants must have a confirmed job offer and their employment sponsored by a UK employer licensed by the Home Office.

- Youth Mobility Scheme - The UK has arrangements in place with ten countries and territories to enable around 20,000 young people to come to the UK to work and travel each year. Applicants must be 18 to 30 years old and can stay up to two years

EU citizens and the EU Settlement Scheme

The EU Settlement Scheme was established to enable EU, EEA and Swiss citizens resident in the UK by 31 December 2020, and their family members, to get the immigration status they needed to continue to live, work and study in the UK. Right to work checks for this group must be completed via the Home Office online right to work check service. Pre-settled status is a grant of UK limited leave to remain or enter the UK for five years. Settled status is the right to live in the UK permanently.

Switch from pre-settled status to settled status

Those with pre-settled status can usually switch to settled status after they've lived in the UK for 5 years in a row and can then usually apply for British citizenship once they've had settled status in the UK for 12 months.

For those who do not apply to switch to settled status, their pre-settled status should be extended by 2 years shortly before it's due to expire. However, the Home Office may cancel this extension if they think the person in question no longer meets the requirements for it.

Individuals may not be eligible for settled status if during the 5 year period of their pre-settled status they spent more than 6 months outside the UK in any 12-month period. In these circumstances, individuals will keep their pre-settled status. If the Home Office thinks that they no longer meet the requirements for pre-settled status, they will cancel it.

From September 2023, people with pre-settled status under the EU Settlement Scheme will automatically have their status extended by 2 years before it expires if they have not obtained settled status. The process will be automated by the Home Office and reflected in the person's digital status. They will be notified of the extension directly. This will ensure that nobody loses their immigration status if they do not apply to switch from pre-settled to settled status.

The Home Office also intends to take steps to automatically convert as many eligible pre-settled status holders as possible to settled status once they are eligible for it, without them needing to make an application. During 2024, automated checks of pre-settled status will establish their ongoing continuous residence in the UK. Safeguards will be in place to ensure that settled status is not wrongly granted.

Immigration skills charge

The immigration skills charge is a fee paid by the University for each skilled migrant worker we employ through the Skilled Worker and Intra-company Transfer routes.

Period	Small or charitable sponsors	Medium or large sponsors
First 12 months	£364	£1,000
Each additional 6 months	£182	£500

Further guidance about the immigration skills charge can be found here:
<https://www.gov.uk/uk-visa-sponsorship-employers/immigration-skills-charge>

Avoiding race discrimination

The University will do all that it can to avoid race discrimination in the workplace, and to ensure that no job applicant is excluded from a position because of their colour, race, nationality, or ethnic or national origins.

We will treat all job applicants in the same way at each stage of the recruitment process, and will make no assumptions on the basis of, for example, appearance or name. There will also be no assumption that an overseas national or someone from an ethnic minority has no right to work in the UK.

We will recruit candidates who are most suited to the position and we will comply with our equal opportunities policy at all times. Subject to eligibility for sponsorship where necessary, the nationality of the most suitable candidate will have no bearing on whether we select them for the post. If for any reason the University did not have a sponsor licence at the time of the recruitment process, this will not be a bar to us recruiting an overseas national in a role that would otherwise qualify for sponsorship, subject to the University being granted a sponsor licence.

The requirement to provide evidence of the right to work in the UK will apply to all new recruits, regardless of their race, nationality or ethnic or national origins.

Data Protection

We will process individuals' personal data, including information about racial or ethnic origin, collected to establish the right to work in the UK and to comply with other immigration requirements, in accordance with our data protection policies.

Further Guidance

The legal requirements related to the sponsorship of overseas workers are both detailed and complex, and are subject to review and change; the current legal requirements as detailed by the Home Office can be viewed at the following link:

<https://www.gov.uk/government/collections/sponsorship-information-for-employers-and-educators>